

R. W. DODDS

IBLA 82-394

Decided March 11, 1982

Appeal from decision of the Utah State Office, Bureau of Land Management, declaring unpatented mining claims within the Arches National Park abandoned and void. U MC 36141.

Appeal dismissed.

1. Appeals -- Rules of Practice: Appeals: Dismissal -- Rules of Practice: Appeals: Timely Filing

Notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. The timely filing of a notice of appeal is jurisdictional and failure to file the appeal within the time allowed requires dismissal of the appeal.

APPEARANCES: R. W. Dodds, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

By decision of November 19, 1981, the Utah State Office, Bureau of Land Management (BLM), declared the Job No. 2, Toby Nos. 1, 3, and 8, Pony Tail Nos. 1 through 9, Bunny Tail Nos. 1 through 8, and Deer Tail No. 1 mining claims 1/ null and void pursuant to 43 CFR 3833.4 and 36 CFR 9.5(d) because no notice of intention to hold the claims had been filed with the National Park Service in 1978 as required by section 8 of the Mining in the Parks Act (MPA), 16 U.S.C. § 1607 (1976), 36 CFR 9.5, or with BLM in 1979 as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), 43 CFR 3833.2. The decision, served on the claimant on November 24, 1981, allowed a period of 30 days for taking an appeal. 43 CFR 4.411.

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1/ The mining claims were located in 1956 for lands in secs. 15 and 23, T. 23 S., R. 21 E., Salt Lake meridian, and sec. 4, T. 24 S., R. 21 E. Copies of the notices of location were timely filed with National Park Service as required by section 8 of MPA.

On December 30, 1981, R. W. Dodds filed a notice of appeal with BLM. The notice should have been filed on or before December 24, 1981. The notice was dated December 28, 1981, after the conclusion of the 30-day period for taking an appeal, so the grace period for late filing, 43 CFR 4.401(a), may not be allowed.

[1] The regulations require that a notice of appeal must be filed within 30 days after the person taking the appeal is served with the decision from which the appeal is taken. 43 CFR 4.411(a). This Board has held that the timely filing of a notice of appeal is required to establish the jurisdiction of the Board to review the decision below and that the failure to file the appeal within the time allowed mandates dismissal of the appeal. Nequoia Association, 60 IBLA 386 (1981); Ilean Landis, 49 IBLA 59 (1980); Lavonne E. Grewell, 23 IBLA 190 (1976); see Browder v. Director, Illinois Department of Corrections, 434 U.S. 257, 264 (1978); Pressentin v. Seaton, 284 F.2d 195, 199 (D.C. Cir. 1960). Although this Board is generally reluctant to take any action which would preclude review of appeals on the merits, the purpose of the 30-day rule is to establish a definite time when administrative proceedings regarding a claim are at an end, in order to protect other parties to the proceedings and the public interest. Thus, strict adherence to the rule is required. See Browder v. Director, Illinois Department of Corrections, *supra* at 264.

Since Dodds did not file a notice of appeal of the November 19, 1981, BLM decision within the 30-day period for appeal, the BLM decision became final. The mining claims are considered abandoned and void and this proceeding must be dismissed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal of R. W. Dodds is dismissed.

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Douglas E. Henriques  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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Bruce R. Harris  
Administrative Judge

